

I. Project Title and Project Purpose Statement

Title

North Carolina's Environmental Regulatory Reform—Making EJ and Low Income Communities Safer.

Project Summary

North Carolina was the birthplace of the environmental justice movement when the residents of Warren County mobilized against a planned PCB landfill in 1982. To date, we still struggle with achieving equal protection and equal enforcement of our nation's environmental laws and regulations for the low income and communities of color that continue to bear the burden of degraded waters, soil, and air. Most recently, North Carolina has made headlines again with two major spills—one from coal ash and another involving raw sewage—and these only highlight the importance of the protections that should be in place through state and federal regulations. Delays in notification about a spill of 82,000 pounds of toxic coal ash and millions of gallons of raw sewage into the Haw River create an inference that the public health of our communities is not of the highest priority in North Carolina.

In some situations, like many other states, North Carolina has gone beyond the federal floor of the Clean Water Act to require stricter permit limits and other regulations to protect surface waters. However, these protections could all be removed through a new reform act, enacted in 2013, that has an extremely wide reach. North Carolina's legislature enacted sweeping legislation in 2013 that will have an extraordinary impact on communities seeking to live in healthy and safe environments. The Regulatory Reform Act of 2013 requires that, in essence, all North Carolina environmental regulations be reviewed and readopted over the next ten years. This is an extraordinary opportunity for the communities most affected by lax enforcement of these environmental regulations to have their voices heard throughout the reform process.

This project is designed to involve EJ communities and their allies in the process of review or revision of the existing set of environmental regulations. The Regulatory Reform Act of 2013 defines a reform process beginning with the review of surface water regulations. Accordingly, the Land Loss Prevention Project (LLPP) and its collaborative partners will first identify the most vital regulations in the administrative code related to surface water regulations and then train community groups and individuals working to achieve equity on these issues. Therefore, the first stage of the project will involve working with project partners and community groups to identify and establish priorities based on the most pressing issues and regulations. Based on these priorities, in the second stage of the project, LLPP and its project partners will develop and implement a strategy to train and engage EJ community residents and their allies in advocating for the maintaining, improving and strengthening of state environmental and public health regulations.

Project Location:

Currently, the LLPP and its identified project partners offer services on a statewide level. However, for the purposes of this project, efforts will be targeted towards environmental justice and low income community members and other interested parties in central and eastern North Carolina. Two of the project partners are located with LLPP in Durham, and offer a unique opportunity to engage the local Durham community, while providing technical and student volunteer resources.

Project Partners:

- North Carolina Environmental Justice Network (NCEJN)
- ToxicFree NC
- West End Revitalization Association (WERA)
- Dr. Yolanda Banks Anderson, Professor: Environmental, Earth, and Geospatial Sciences; North Carolina Central University
- The Office of the Mayor, Durham, North Carolina: Mayor Bill Bell

II. Environmental and/or Public Health information about the Affected Community

The project partners will begin their work by identifying the communities that are already struggling with issues related to surface water contamination. There are clearly documented problems for low income communities, farm workers, and even small farmers that are located in the eastern part of the state. These may be caused by point source or nonpoint source discharges and are related to sewage spills (there have been two such incidents in central North Carolina in the last two months¹). Our partners are already working on the ground with community members in Alamance, Duplin, Durham, Edgecombe, Greene, Bladen, Halifax and Pender. North Carolina has the dubious distinction of having three cities that were included in the list of the ten poorest in the entire United States², and one of those locations falls in our targeted communities.

It has been widely reported that health and environmental disparities occur where there are rates of higher poverty and communities of color. Based on data from the US Census³, our probable counties fare as follows:

County	Rate of Poverty	Percentage of Residents of Color
Alamance	17.3%	23.9%
Bladen	24.4%	39.5%
Durham	18.0%	47.0%
Duplin	24.4%	29.5%

¹ The city of Burlington had a multi-day, 3.5 million gallon spill of raw sewage into the Haw River at the end of January, 2014 and Johnston County had a sewage spill of 7500 gallons on February 18, 2014.

² Forest City, Roanoke Rapids, and Lumberton were in the top 10 of America's poorest cities, based on data from the U.S. Bureau of the Census, American Community Survey data published in 2012.

³ 2012 data from State and County Quick Facts of the US Census Bureau
<http://quickfacts.census.gov/qfd/states/37/37063.html>

Edgecombe	24.0%	59.6%
Greene	22.1%	41.0%
Halifax	25.3%	59.1%
Pender	18.0%	21.0%

In general, the health issues related to surface water contamination are broad. For example, the raw sewage spill into a drinking water source in Alamance County is an immediate concern. Issues related to potential pesticide run-off or contamination from industrial hog farm waste lagoons are also a major concern to the communities identified. Because the Regulatory Reform Act is so wide reaching and the specific environmental standards in the legislation governing surface water contamination could be altered, we will be identifying the most pressing issues and the correlated environmental regulation or standard and prioritize our community training and engagement efforts accordingly.

III. Organization's Historical Connection to the Affected Community

The LLPP has worked on issues of environmental justice education, administrative advocacy, and litigation since the early 1990s. We have worked with low income and communities of color that struggled to achieve equity with issues related to landfill siting, cotton gin emissions, hog waste lagoons, and basic access to amenities like water and sewer. Through these processes we have developed strong relationships with grassroots groups that have benefitted the affected community members. We have conducted legal analysis of issues and assisted in preparation for litigation and administrative claims or filing of litigation where necessary to combat environmental injustice and defend community interest.

Our partners are key grassroots groups that have long histories of engagement within the targeted communities. They also have expertise in looking at specific pieces of legislation. For example, ToxicFree NC has expertise in looking at appropriate levels of pesticide exposure amongst the small farming and farmworker communities. WERA has expertise in providing community access and voice in issues related to basic amenities and facility siting. NCEJN has worked on a whole range of environmental issues and has provided resources to communities on hog waste, dispersal of effluent, and contamination by multiple sources to surface waters.

Additionally, LLPP will also partner with Dr. Yolanda Banks Anderson, of North Carolina Central University and have had interest expressed by the Director of the Student Service Learning Program at NCCU. Dr. Anderson will bring her expertise and student involvement, which will be particularly beneficial in the Durham community. Here in Durham, with the support of the City and Mayor Bill Bell, we plan to focus efforts on one particular community within Durham and engage them in a collaborative problem solving process that will involve the provision of resources and educational materials from all partners. They will then understand more about how the rules reform impacts their community issues.

These last two partners represent interest and investment by the City of Durham, following up on the Mayor's work on poverty reduction efforts and promotion of development and urban

agriculture. NCCU, as a local institution, will also collaborate by providing research and student resources which will be invaluable in education and outreach efforts of the project.

IV. Project Description

This project is timely because the Regulatory Reform Act of 2013 (NCGS 150B-21.2) presents both an extraordinary opportunity and imminent need in North Carolina for active community involvement. This law touches a host of issues ranging from the definition of a “bed and breakfast” to issues impacting state and local governments and private contracts. For the purposes of this proposal, and of import to local communities, the breadth of the potential environmental reform is enormous. Under the Regulatory Reform Act, there will be a review and categorization of *all* state environmental rules over a 10-year period. Once the rules are reviewed (and possibly revised or removed), they have to be readopted by the NC General Assembly. This process will begin with a review of the surface water and wetlands regulations found in Title 15A of the North Carolina Administrative Code. In subsequent years, groundwater, solid waste, and air will follow.

The reform process for the environmental rules functions as follows:

1) The agency – in this case, the Environment Management Commission (EMC) – classifies the rules within its jurisdiction into the following categories: (a) Necessary with substantive public interest, (b) Necessary without substantive public interest, and (c) Unnecessary.^{4, 5} In January of 2014, the Environmental Management Commission voted to categorize all Title 15A (surface water) rules as necessary in the public interest. Once labeled as necessary with substantive public interest, there is a requirement that all the rules have to be readopted by the General Assembly.

2) Once the rule has been classified and public comment period ends, the agency (EMC) will prepare a report for the Rules Review Commission (RRC) and put forth its position and the public comments.

3) The Rules Review Commission reviews the classifications by the EMC and prepares a report to a joint legislative committee.

This process focuses on the classification of individual rules as ‘necessary with substantive public interest’, ‘necessary without public interest’ or ‘unnecessary’. In the case of the surface water regulations, at this point, all rules are deemed to be ‘necessary with substantive public interest’. That means, barring a change in the agency determination, all those rules and standards are going to have to be readopted. North Carolina has some protections in place that have gone beyond the federal standard, and all of these protections could be removed through the reform process.

⁴ The EMC has jurisdiction over the rules govern air, water, underground storage tanks, and stormwater. The Commission for Public Health will be over the Division of Waste Management Programs.

⁵ “Necessary without public interest” means that the rules stay, and that no comment has been made within two years. “Necessary with substantive public interest” is any rule on which the agency has received public comment within the last two years or there is a substantial public interest/impact. “Unnecessary” is a rule that has been deemed to be obsolete and will ultimately be removed.

One of the key elements to this reform process for the purposes of this grant is that we can engage community members to make suggested changes on the rules that most affect their concerns. Additionally, the rules to be considered have a timeline for readoption. If they are not readopted, they could possibly be removed. It is absolutely vital that the community fully utilize this opportunity to make informed decisions and be heard by the legislature.

Our Project:

Very much in the spirit of the U.S. EPA's Plan EJ 2014, Integrating Environmental Justice into Rulemaking Efforts, LLPP, with the project partners, will begin our project by meeting as a small group to identify the most pressing needs and analyze where the state is in the reform process. We seek to engage the local communities and individuals with the ongoing process and to train them as to how it has an impact on their quality of life concerns. Through our work and preparation, we hope to educate and empower affected communities so they can have a better understanding of how they are actually affected by the surface water standards, thereby changing both their behavior and improving their quality of life. We will begin by focusing on issues connected with surface water and governed by the Clean Water Act (Section 104(b)(3)), the Safe Drinking Water Act (Section 1442(c)(3), and the Federal Insecticide, Fungicide, and Rodenticide Act.

Our goal at these meetings will be to identify priority areas of concern with the surface water regulations, based on the work that is already occurring with our grassroots partners. LLPP will be preparing a document that summarizes the reform process and identifies opportunities for public involvement. From these initial planning meetings, we will identify specific impacted communities and other potential partners, so as to broaden the base of stakeholders. Specifically, we want to seek out businesses and other local governments.⁶ Once the specific surface water regulations are identified and we invite additional stakeholders, we will meet with the affected communities to share the process and opportunities for public comment. Our primary goal is to educate, train and engage with the community members about the process and how the state regulations impact their concerns.

LLPP and its partners are uniquely situated to train and education communities that are burdened with environmental justice concerns. Here, the Mayor of Durham has placed a priority on issues of poverty with the city, and with an active, engaged, and supportive administration, the partners in this project have an opportunity to create a model process that engages directly with the impacted community and provides local government, community-based organizations, and university resources all in one place. LLPP has legal expertise and understanding of the regulatory process, but without the specific experiences brought to the table by the community-based organizations, university, and city, we could not offer such a holistic process to affected communities. We will take the process in Durham and expand that to our other two identified communities and then seek to involve local government and business there as well.

Communications and Educational Materials

We anticipate drafting educational materials about the regulations, their community impacts, and the importance of understanding and participating in the regulatory reform and rulemaking

⁶ Local government will be targeted, because it appears that the authority of local governments to make their own ordinances that may be stronger than state standards is challenged.

process. We will also hold several in-person meetings as well as teleconferences to keep stakeholders fully engaged up-to-date on this critically important regulatory process. LLPP will also regularly update its own website with materials and information about public meetings.

Next Steps

Over the period of two years, we will begin with a small set of priority surface water regulations, but we will create the space for expanding to a larger array of regulatory issues for expansion if there are larger issues (within the context of surface water) that need to be addressed. Because environmental justice problems and disparate impacts are not isolated to just water, however, we see that this project can also be a model for other collaborative problem solving processes that could be developed to address other reforms of the NC Administrative Code's environmental regulations that are forthcoming (air quality, agriculture, etc).

V. Organizational Capacity and Programmatic Capacity

The LLPP is a non-profit legal services organization that was founded in 1982 and incorporated in 1983 with the original mission to stem the unprecedented losses of Black-owned farmland. By the early 90s, the organization's mission broadened to encompass assistance to all financially eligible low-resource landowners and farmers in the state who were experiencing problems that could result in the loss or diminishment of their lands and livelihoods. The LLPP addresses legal matters in the following areas: agricultural; environmental; real property across a range of issues, including foreclosure defense; consumer protection; wills/estate planning; civil rights; zoning, municipal services, and related issues; bankruptcy as a last-resort alternative to foreclosures (farms and/or homes); and business/agricultural business issues. The LLPP provides extensive service statewide through direct legal assistance to clients, community outreach, and policy advocacy.

The LLPP's work is pronounced in its impact. In State fiscal year 2012-2013 (7/1 to 6/30 of the following year), for example, the LLPP handled 472 matters and served 76 counties based on client location and 81 counties based on land location. Altogether, the LLPP provided service in 82 different N.C. counties. In the past four State fiscal years (each 7/1 to 6/30 of the following year for 09-10, 10-11, 11-12, 12-13), the LLPP gained \$5,173,084.11 in debt relief, loan modifications, and awards for clients across its practice areas. Of the 472 legal matters handled in fiscal year 2012-2013, almost a third involved service to N.C. farmers or agriculture-related matters across all of the LLPP's practice areas. In the 2012 - 2013 fiscal year, the Litigation Unit provided in-person outreach to 1,025 farmers, landowners, and individuals serving the agricultural community.

The LLPP is unique in that it is a non-profit law firm that both provides expansive direct legal assistance to limited resource landowners and homeowners while maintaining a focus on agricultural law issues and monitoring changes that affect the law. The organization maintains a national toll-free assistance line whereby individuals, community-based organizations, and private attorneys can call for information and referral. Because land and the environment are inexorably linked, the LLPP has maintained its focus on environmental equity and justice issues since 1991. The LLPP staff undertakes legal representation of clients, community education, and professional outreach in the effort to bring forth greater levels of equity and transparency in the state of North Carolina.

The LLPP has a full-time, in-house administrative staff which has had significant experience in the reporting and administrative management of several Federal grants in recent history. Further, the organization maintains an on-going consulting contract with our accountant, Vivian Wan, C.P.A., who has assisted us with the financial administration of several Federal grants in the past. Ms. Wan uses up-to-date computer software to manage the organization's Federal grant expenditures.

Most recently, LLPP has received and managed two USDA Office of Advocacy and Outreach 2501 grants. By ensuring that the administrative team consisted of sufficiently skilled staff members, including our Office Manager, Program Specialist Attorney and accountant, we were able to successfully manage both of these grants. Our timely submission of quarterly fiscal and narrative reports for each of these grants reflects our ability to maintain both implementation responsibilities as well as administrative responsibilities for executing Federal grants. These grants each focused on identifying relevant government programs and implementing the necessary community outreach and education to enhance participation in these programs. Both of which will be significant in the implementation of this project.

Internally, LLPP has checks and balances to ensure that each project team member is fulfilling the requirements of their individual role and responsibility within the project. Resumes of all key staff are attached to this project proposal, but a brief description of roles and responsibilities under this grant follows:

Ms. Annette Hiatt, Senior Staff Attorney, will serve as Project Manager. Ms. Hiatt will work to build productive relationships among all participants and will ensure all work products are completed in a timely and collaborative fashion and that all participants are kept fully informed of progress and requirements. She will supervise project staff, coordinate the partner network, and assist in production of final outreach and education materials.

Ms. Savi Horne, Executive Director will provide overall administrative management and oversight. Ms. Horne has worked with LLPP since 1998 and led our policy efforts in environmental justice and agriculture until transitioning to the role of Executive Director in 2005. She is a member of the National Environmental Justice Advisory Committee and has strong roots, belief in and dedication to the movement of communities seeking to achieve true equity. Horne was a co-Team Leader of the Diversity Initiative of the Farm and Food Policy Project, a W.K. Kellogg Foundation funded project, facilitated by the Rural Coalition that advocated for policy changes in the 2008 federal Farm Bill. She also serves on the Black Family Land Trust, National Black Farmers Alliance and the Rural Coalition boards. She is an active member of the North Carolina Local Sustainable Food Coalition which focuses on supporting local, family, and organic farms. Horne is a graduate of Rutgers University of the State University of New Jersey; Juris Doctor, admitted to the New York State in 1990 and graduated from City College of the City University of New York, with a B.A. in Urban Legal Studies, 1982.

Mr. Omari Wilson, Staff Attorney, will participate in meetings and community education and outreach efforts. Mr. Wilson grew up in West End, a historically African American community in Mebane, North Carolina, a growing town in the central part of the state dealing with various ongoing environmental justice issues. He has assisted in the drafting of an administrative complaint that was filed in 1999 with the U.S. Department of Justice under Title VI of the Civil Rights Act of 1964 and

Executive Order 12898 on behalf of the West End Revitalization Association (WERA), a community grassroots organization. WERA was awarded the Environmental Protection Agency's Environmental Justice Small Grant in 2001 and a Collaborative Problem Solving Grant in 2004. Mr. Wilson currently conducts outreach on environmental issues, foreclosure prevention, estate planning, and heir property resolutions. Mr. Wilson has a psychology degree from Appalachian State University (2001) and graduated with a JD from Capital University School of Law in 2005.

Ms. Wendy Burnette, Office Manager, will work with the project team to support the overall management and fiscal management to the project. Ms. Burnette has a proven track-record of accomplishing these tasks under the aforementioned Federal grants. Ms. Burnette is a fluent Spanish language speaker with strong administrative skills. She graduated from Texas Tech University with a B.A. degree in Communication Studies with a minor in Spanish.

Should key personnel for the implementation of this project be unable to fulfill their responsibilities, the first line of response would be to involve the Executive Committee of the LLPP Board, Associate Dean Donald Corbett of the North Carolina Central School of Law (NCCU Law), Professor Mary Wright of NCCU Law, and Attorney Travis Payne, each of whom are attorneys, capable of continuing any on-going outreach to clients related to this project. Executive Director, Savi Horne, would assume the position of Project Director continuing to manage the delivery of the outreach plan, facilitating the partnerships, and monitoring the evaluation process. Through LLPP's Board Chair, Associate Dean Corbett, NCCU Law, a long-time supporter and original incubator of the LLPP, would engage faculty and students to continue the outreach and education delivery for this project by developing of any necessary legal education materials and conducting remaining workshop presentations. These efforts would continue through sustained collaboration with project partners.

LLPP has never received an EPA grant, but as stated above, in FY 2011-2012 (Grant Number 59-2501-11-032) & FY 2012-2013 (Grant Number 59-2501-11-032), LLPP has received and managed two USDA Office of Advocacy and Outreach 2501 grants. For both grants, the Project Officer was Brenda Wise. Based on our successful accomplishment of many of the projected outputs and outcomes under the first grant (From Discrimination to a Future in Farming) we were able to expand the project into the second year and cycle of grant funding (From Discrimination to a Future in Farming II). For each grant, rather than leave objectives unachieved, we requested and received no cost extensions to ensure that we could meet the projected goals of each grant.

VI. Qualifications of the Project Manager

The LLPP's staff has a strong history in working within the movement for environmental equity. Project Manager, Annette Hiatt, was on the LLPP staff from 2001-2008 and from 2012-present. She is a member of the Environment and Natural Resources Section of the North Carolina Bar Association and has made multiple presentations to community groups and professional associations on issues associated with environmental justice. She was a fellow of the Natural Resources Leadership Institute through NC State and focused on collaborative decision-making. She has also been involved with litigation, settlements, and administrative proceedings related to siting decisions and in assisting communities with access to water and sewer resources. She has also served

as a board member of ToxicFree NC until 2008. Ms. Hiatt has a Social Work degree from UNC Charlotte (1997) and graduated from Case Western Reserve University with a law degree in 2001.

VII. Past Performance in Reporting on Outputs and Outcomes

Grant Number	Title of Project	Funding Amount	Funding Agency	Point of Contact	How Progress was Documented
59-2501-11-032 (FY 2011-2012)	USDA 2501 Grant - From Discrimination to a Future in Farming	\$325,000	USDA	Brenda Wise	Quarterly reports and a final report were electronically submitted to the agency to track our progress with regard to project outputs and outcomes. All reports included both financial and narrative components to reflect the timely accomplishment of projected outcomes and outputs. Any projected outcomes and outputs which were not timely accomplished were also justified including barriers and potential for future intervention in the relevant reports.
59-2501-11-032 (FY 2012-2013)	USDA 2501 Grant - From Discrimination to a Future in Farming II	\$300,000	USDA	Brenda Wise	Quarterly reports and a final report were electronically submitted to the agency to track our progress with regard to project outputs and outcomes. All reports included both financial and narrative components to reflect the timely accomplishment of projected outcomes and outputs. Any projected outcomes and outputs which were not timely accomplished were also justified including barriers and potential for future intervention in the relevant reports.
31757	N/A	\$682,704	NC Department	Monique	Quarterly reports and a final report were electronically

(NC FY 2010-2011)			of Commerce	Johnson	submitted to the agency to track our progress with regard to project outputs and outcomes. All reports included both financial and narrative components to reflect the timely accomplishment of projected outcomes and outputs. Any projected outcomes and outputs which were not timely accomplished were also justified including barriers and potential for future intervention in the relevant reports.
36210 (NC FY 2011-2012)	N/A	\$567,973	NC Department of Commerce	Monique Johnson	Quarterly reports and a final report were electronically submitted to the agency to track our progress with regard to project outputs and outcomes. All reports included both financial and narrative components to reflect the timely accomplishment of projected outcomes and outputs. Any projected outcomes and outputs which were not timely accomplished were also justified including barriers and potential for future intervention in the relevant reports.
40046 (NC FY 2012-2013)	N/A	\$575,050	NC Department of Commerce	Monique Johnson	Semi-annual reports and a final report were electronically submitted to the agency to track our progress with regard to project outputs and outcomes. All reports included both financial and narrative components to reflect the timely accomplishment of projected outcomes and outputs. Any projected outcomes and outputs which were not timely

					accomplished were also justified including barriers and potential for future intervention in the relevant reports.
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VIII. Expenditure of Awarded Grant Funds

The project budget will be utilized to assist in paying for dedicated LLPP staff time. LLPP will initiate the project by analyzing the state legislation and the Division of Water Resources and EMC views on the regulations. Within a month, project partners will be consulted to set up an initial planning meeting to discuss strategy and other potential stakeholders to be invited.

Specifically, budget funds will be utilized for staff time, partner contracts, legal analysis, attendance at meetings, organizing meetings, travel reimbursement, production of materials and website updates.

IX. Quality Assurance Project Plan

A QAPP will not likely be necessary as LLPP will not be using existing environmental data or collecting new data.